REMARKS

STATUS OF CLAIMS

In response to the Office Action dated January 9, 2009, claims 12, 13, 15, 19, 23, 24, 26 and 27 have been amended. Claims 12-27 are now pending in this application.

REJECTION OF CLAIMS UNDER 35 U.S.C. § 103

Claims 12-27 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Ferlitsch (US 2004/0061890) in view of Nakamura (USPN 5,970,219), relied upon by the Examiner as disclosing an image processing device comprises an adding unit which adds an image processing command to image data.

As noted in the previous Response, the present invention is characterized by an image processing apparatus for storing plural file formats which permit (or prohibit) addition of an image processing command to read image data in a storage unit, determining a file format into which the read image data will be converted, judging whether the file format thus determined is stored in the storage unit, and when judging that the file format thus determined is stored in the storage unit, permitting (or prohibiting) addition of the image processing command to the read image data.

In the present Office Action, the Examiner admits (at the middle of page 4 as to independent system claim 12, at the middle of page 6 as to independent apparatus claim 13, and at the top of page 13 as to independent apparatus claim 24) that Ferlitsch fails to disclose "an adding unit which adds an image processing command to image data." However, prior to this admission, the outstanding Action asserts that the other structural components except for this "adding unit" are taught by the disclosure of Ferlitsch. However, as noted in the previous response, Ferlitsch discloses a technology for effectively selecting an appropriate printer from plural printers having many kinds of different print capabilities, when performing a print job designated from a client terminal, which is substantially different from the image processing system disclosed in the present application.

Thus, the above-noted assertion is respectfully submitted to be clearly based on a misunderstanding or misinterpretation of Ferlitsch at least as to the three below-noted limitations of these independent claims and similar limitations of independent method claims 26 and 27.

In this regard, and with reference to the previous language of exemplary independent system claim 12, it is respectfully submitted that the outstanding Action is clearly wrong in suggesting that Ferlitsch taught the previously claimed "storage unit which stores a file format which permits addition of the image processing command to the read image data," and, thus, would otherwise prohibit this addition. The outstanding Action is also clearly wrong in suggesting that Ferlitsch taught the previously claimed "judging unit which judges whether the file format thus determined is stored in said storage unit." Similarly, the outstanding Action is clearly wrong in suggesting that Ferlitsch taught the previously claimed requirement that "when said judging unit judges that the file format thus determined is stored in said storage unit, addition by said adding unit of the image processing command to the read image data is permitted," so that with out this being expressly permitted, it is clearly prohibited.

The outstanding Action has further changed the previous reliance as to "mass storage device 26" of Ferlitsch being interpreted as the claimed "storage unit" to new reliance on "memory 16" as corresponding to this claimed "storage unit. However, to whatever extent that the "memory 16" of Ferlitsch might store a plurality of file formats, there is no teaching or suggestion by Ferlitsch of selectively storing the previously claimed "file format which permits addition of the image processing command to the read image data," and, thus, would otherwise prohibit this addition.

The outstanding Action further changed reliance from the "print processor 49" of Ferlitsch to reliance on the "server 69" of Ferlitsch as allegedly corresponding to the above-noted previously claimed "judging unit." However, there is no disclosure or suggestion by Ferlitsch that this "server 69" is to judge "whether the file format thus determined is stored in said storage unit," which is now alleged to correspond to "memory 16" as noted above.

Turning to the above-noted previously claimed requirement that "when said judging unit judges that the file format thus determined is stored in said storage unit, addition by said adding unit of the image processing command to the read image data is permitted," so that with out this

being expressly permitted, it is clearly prohibited, the outstanding Action relies on paragraph [0067] of Ferlitsch. However, nothing in paragraph [0067] of Ferlitsch teaches or suggests this conditional addition by an adding unit is "permitted," that, thus, clearly prohibits it when not so "permitted."

Thus, there is clearly nothing taught by Ferlitsch as to a relationship between the required permission (and associated prohibition) for addition of the image processing command and a file format converted from image data and this deficiency is not cured by Nakamura. Therefore, the allegation as to obviousness of this previously claimed subject matter was clearly in error.

Furthermore, in order to o expedite prosecution, independent claim 12 has been amended to delineate, *inter alia*:

> ...
> wherein said image processing apparatus comprises:
> a storage unit which stores *information regarding* a file format, *said information including whether said file format* permits addition of the image processing command to the read image data; and
> a judging unit which judges whether the file format *that the image data of the original has been converted into has said information* in said storage unit *regarding the file format permitting addition of the image processing command to the read image data*, and
> when said judging unit judges that the file format *that the image data of the original has been converted into has said information* in said storage unit *regarding the file format permitting addition of the image processing command to the read image data*, addition by said adding unit of the image processing command to the read image data is permitted.

Independent claims 13, 24, 26 and 27 have been amended to recite similar subject matter, and dependent claims 15, 19 and 23 have been amended for consistency with amended independent claim 13.

The information regarding whether the file format permits/prohibits addition of the image processing command to the read image data is depicted in Figs. 3 and 6, and described at, for example, page 15, lines 12-19 and page 20, line 25 to page 21, line 5 of the present application.

Thus, amended independent claims 12, 13, 24, 26 and 27 even more clearly set forth subject matter that is not disclosed or suggested by Ferlitsch and Nakamura.

In this regard, memory 16 of Ferlitsch further does not store "**information regarding**" whether a file format permits/prohibits addition of the image processing command to the read image data. In particular, no description can be found in Ferlitsch regarding any file format permitting/prohibiting a certain image processing command such as rotation of an image, let alone that a memory stores information regarding whether the file format permits/prohibits addition of the image processing command to the read image data.

Furthermore, server 69 of Ferlitsch does not judge whether "the file format *that the image data of the original has been converted into has said information*" in memory 16 regarding the file format permitting/prohibiting addition of the image processing command to the read image data. Therefore, Ferlitsch does not disclose or suggest that when the judging unit judges that the file format that the image data of the original has been converted into has the information in the storage unit regarding the file format permitting/prohibiting addition of the image processing command to the read image data, addition ... of the image processing command to the read image data is permitted/prohibited.

Also, paragraph [0067] of Ferlitsch has no teaching or suggestion that is relevant to the amended requirement that "when said judging unit judges that the file format *that the image data of the original has been converted into has said information* in said storage unit *regarding the file format permitting addition of the image processing command to the read image data*, addition by said adding unit of the image processing command to the read image data is permitted" (emphasis added).

In view of the above, claims 12-27, as amended are respectfully submitted to be patentable over Ferlitsch and Nakamura, and the withdrawal of the rejection of claims 12-27 under 35 U.S.C. § 103(a) as being unpatentable over Ferlitsch in view of Nakamura is respectfully requested.
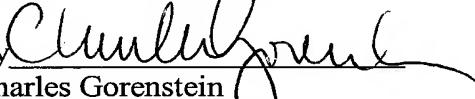
CONCLUSION

In view of the above, applicant(s) believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Raymond F. Cardillo, Jr. (Reg. No. 40,440) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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